

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

\* \* \* \* \*

Edward Ehrmantraut, and  
Jean Ehrmantraut, his wife

Plaintiffs,

vs.

REPORT AND RECOMMENDATION

Bayer Corporation, Bayer  
Healthcare Pharmaceuticals, Inc.,  
as Successor in Interest of Bayer  
Pharmaceuticals Corporation,  
and Bayer Schering Pharma AG,  
as Successor in Interest of  
Bayer Healthcare AG,

Defendants.

Civ. No. 10-163 (MJD/RLE)

\* \* \* \* \*

This matter came before the undersigned United States Magistrate Judge upon the routine supervision of cases filed in this Division, and upon a general assignment made in accordance with Title 28 U.S.C. §636(b)(1)(B).

This matter was initiated on January 20, 2010, by the filing of a Complaint with the Clerk of Court. See, Docket No. 1. On June 1, 2010, it having appeared that one

hundred and twenty (120) days had passed, and the Defendants had not been served with the Complaint and Summons as required by Rule 4(m), Federal Rules of Civil Procedure, this Court issued an Order, which stated as follows:

That the Plaintiff is directed to show good cause, in writing, within twenty (20) days of the date of this Order, for an extension of time in which service can be effectuated. In the absence of good cause shown, the Court shall recommend that this action be dismissed for failure to effect proper service, and for failure of prosecution.

Docket No. 2 at p. 2 of 2.

To date, the Plaintiffs have failed to abide by the terms of our Order of June 1, 2010. Since we have previously warned the Plaintiffs of the potential consequences for the failure to timely serve the Defendants, and to abide by the Orders of this Court, we recommend that this action be dismissed, for failure to comply with this Court's Order of June 1, 2010, for failure to effect proper service, and for lack of prosecution.

NOW THEREFORE, It is --

RECOMMENDED:

That this action be dismissed, without prejudice, for failure to comply with this Court's Order of June 1, 2010, for failure to effect proper service on the Defendants, and for lack of prosecution.

Dated: July 29, 2010

s/ Raymond L. Erickson  
Raymond L. Erickson  
CHIEF U.S. MAGISTRATE JUDGE

**NOTICE**

Pursuant to Rule 6(a), Federal Rules of Civil Procedure, D. Minn. LR1.1(f), and D. Minn. LR72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties **by no later than August 12, 2010**, a writing which specifically identifies those portions of the Report to which objections are made and the bases of those objections. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals.

If the consideration of the objections requires a review of a transcript of a Hearing, then the party making the objections shall timely order and file a complete

transcript of that Hearing **by no later than August 12, 2010**, unless all interested parties stipulate that the District Court is not required by Title 28 U.S.C. §636 to review the transcript in order to resolve all of the objections made.